

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN MIKE TAYLOR**, on January 11, 2001 at 8:00 A.M., in Room 422 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Mike Taylor, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Edward Butcher (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Sam Kitzenberg (R)  
Sen. Dale Mahlum (R)  
Sen. Glenn Roush (D)  
Sen. Don Ryan (D)

**Members Excused:** Sen. Dale Berry (R)

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Kyanne Kelly, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB157, 1/8/2001; SB59,  
1/8/2001  
Executive Action: SB112; SB32; SB74; SB93; SB106

**HEARING ON SB 157**

**Sponsor:** SENATOR VICKI COCCHIARELLA, SD 32, MISSOULA

**Proponents:** George Wood, Montana Self Insurers Association  
Bob Worthington, Mutual Insurance Authority  
Nancy Butler, State Fund  
Dwight Easton, Farmers Insurance  
Aidan Myhre, Montana Chamber of Commerce

**Opponents:** Glenn Gregor, Montana Injured Workers Council  
Tim Vacca, Self  
Darrell Holzer, Montana AFL-CIO  
Al Smith, Montana Trial Lawyers Association

**Opening Statement by Sponsor:**

**SENATOR VICKI COCCHIARELLA, SD32, MISSOULA,** stated there are people who want to abuse the Worker's Comp system. They are the ones who cost the injured workers the most. If someone is on temporary partial or total disability and goes back to light duty work, the Workers Comp will make up the difference to their original salary. The worker requalifys for disability benefits if the light duty work is no longer available. This bill adds a disclaimer that temporary total or partial disability will be reinstated for any reason except for the worker's incarceration, retirement, resignation, or termination for disciplinary reasons

**Proponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 8.4}***

**George Wood, Self Insurers Association,** said they support the legislation. The intent of the original legislation was to protect the worker if he lost his job because of employer action. This amendment provides for actions on the part of the employee which cause the loss of job. If it is the employees' actions which result in the loss of job, then the employer should not be obligated to return him to disability pay. They recommend that it be the employers written policies which have been violated to avoid arbitrary firing due to the workers disability.

**Bob Worthington, Montana Municipal Insurance Authority,** stated that for the reasons stated by Senator Cocchiarella they support the bill.

**Nancy Butler, State Fund**, stated she agrees with George Wood and Senator Cocchiarella.

**Dwight Easton, Farmers Insurance**, supports this bill.

**Aidan Myhre, Montana Chamber of Commerce**, supports this bill.

**Opponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 13}***

**Glenn Gregor, Montana Injured Workers Resource Council**, said workers could be terminated if they talked with OSHA about safety hazards.

**Tim Vacca, an injured worker**, stated his attorney told him to be very careful when he went back to work in any capacity because his employer would be apt to fire him because he was a liability.

**Darrell Holzer, Montana AFL-CIO**, stated their opposition to this bill. The whole purpose of Worker's Comp is that the worker forgoes their right to sue the employer, provided they have this insurance coverage while in their employ. So it was intended to be a protection for both the employer and the employee. This bill starts a laundry list of reasons the employer or employee can walk away from their agreement based on circumstances that have nothing to do with the original event that occurred and led to the liability on the part of the insurer and the injury on behalf of the worker. They are two separate, distinct things.

**Al Smith, Montana Trial Lawyers Association**, opposes this bill because although sometimes there are legitimate problems, this opens the door for potential problems for employees.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : A; Approx. Time Counter : 27.3}***

**SENATOR ED BUTCHER** stated that Worker's Comp was really designed to give the injured worker the support to change careers.

**Darrell Holzer** replied that his understanding of the Worker's Comp act was different from that, as stated in his previous testimony.

**SENATOR DON RYAN** asked if it is possible to write this so the worker doesn't have to take a job which is not suitable? **SENATOR COCCHIARELLA** stated that is how it is right now.

**Closing by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 5.2}***

**SENATOR COCCHIARELLA** stated the intent of this bill is to protect workers. She suggested an amendment that clearly stated the reason for termination would be according to the established policies of the company. She felt this would protect Worker's Comp people when they went back to light duty work.

**HEARING ON SB59**

**Sponsor:** SENATOR LINDA NELSON, SD 49, MEDICINE LAKE

**Proponents:** C. Hal Manson, American Legion of Montana  
Dan Antonietti, VFW  
Mark Staples, Montana Tavern Association

**Opponents:** None

**Opening Statement by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 11.3}***

**SENATOR LINDA NELSON** said the purpose of the bill is to provide fraternal organizations special permits to sell beer and wine at functions whether or not they are otherwise licensed under this code.

**Proponents' Testimony:**

***{Tape : 1; Side : B; Approx. Time Counter : 15.5}***

**Hal Manson, American Legion of Montana**, said this would be very beneficial to the smaller posts.

**Dan Antonietti, VFW**, said this would be helpful in their small activities to support their organization.

**Mark Staples, Montana Tavern Association** stated they would support this bill with an amendment that it be: 1) for a limited number of events, say two or three a year, and 2), that the proceeds go back to the post that was sponsoring it, and 3) that they be non-profit events.

Opponents' Testimony: None

Questions from Committee Members and Responses:

*{Tape : 1; Side : B; Approx. Time Counter : 24.4}*

SENATOR DALE MAHLUM wanted clarification of what limited events meant. Such as in Missoula the fair is six days, would that be one event?

Mark Staples said yes.

Closing by Sponsor:

*{Tape : 2; Side : A; Approx. Time Counter : 3.5}*

SENATOR NELSON noted that Mark Staples' amendments were a fair solution she supports them.

EXECUTIVE ACTION ON SB 112

*{Tape : 2; Side : A; Approx. Time Counter 17.5}*

Motion/Vote: SEN. MIKE TAYLOR moved that SB 112 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB32

Motion/Vote: SEN. MAHLUM moved that AMENDMENT TO SB32 DO PASS. Motion carried unanimously. **EXHIBIT** (bus08a01)

Motion/Vote: SEN. MAHLUM moved that SB 32 DO PASS AS AMENDED. Motion carried 9-0.

EXECUTIVE ACTION ON SB 74

Motion/Vote: SEN. ROUSH moved that SB74 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB93

**Motion/Vote:** SEN. COCCHIARELLA moved that **SB93 DO PASS. Motion carried unanimously.**

**EXECUTIVE ACTION ON SB 106**

**Motion:** SEN. ROUSH moved that **SB 106 DO PASS.**

**Discussion:** SENATOR COCCHIARELLA asked about the signature that is required. SENATOR MIKE SPRAGUE said that as long as it is over \$100,000.00, they need a signature. Some states had no limitations and some required signature on \$25,000 or more. It's a starting point with that \$100,000. SENATOR BUTCHER said you almost always get a letter of credit for money in that amount.

**Vote:** Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 9:45 A.M.

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SEN. MIKE TAYLOR, Chairman

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KYANNE KELLY, Secretary

MT/KK

**EXHIBIT (bus08aad)**